



# MINUTES

## Executive Board

---

Three hundred twenty-fourth Meeting  
Monday  
May 16, 2005

LCR 1 & 2  
State Capitol Building  
Pierre, South Dakota

The three hundred twenty-fourth meeting of the Legislative Research Council (LRC) Executive Board was called to order by Chair Senator Ed Olson at 9:08 a.m. (CT), Monday, May 16, 2005, in LCR 1 & 2 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Mike Broderick, William Earley, Bob Gray, Gil Koetzle, Ed Olson, and Jim Peterson; Representatives H. Paul Dennert, Pat Haley, Phyllis Heineman, Barry Jensen, Matthew Michels, Gordon Pederson, and J. E. "Jim" Putnam. Representative Jean Hunhoff, appearing telephonically, joined the meeting following the roll call. Senator Lee Schoenbeck was excused.

Staff members present included James Fry, Director, and Kris Schneider, Legislative Secretary.

A list of guests present during all or part of the meeting is on file with the master minutes.

(NOTE: For sake of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents are on file with the Master Minutes.)

(Clarification: Voice votes that prevail with all members present voting "aye" will carry the disposition language "prevailed unanimously." Voice votes that prevail with a majority of all members present voting "aye" will carry the disposition language "prevailed." Voice votes that prevail without all members present voting "aye" will list those members casting "nay" votes if so requested by the dissenting voter.)

### Approval of Minutes

**SENATOR BRODERICK MOVED, SECONDED BY REPRESENTATIVE DENNERT, THAT THE EXECUTIVE BOARD APPROVE THE MINUTES OF THE APRIL 18, 2005, MEETING. Representative Dennert stated that on page 8 under his report on Streamlined Sales Tax, the cost for a member state should be \$20,000, not \$20. It was the consensus that this change should be made to the original minutes. Staff was directed to make the correction to the minutes. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.**

### Approval of Agenda

Chair Ed Olson informed the Board that he would be asking for their input on out-of-state travel requests following the discussion of International Legislative Forum Meetings Attendance at 2:45 p.m.

**SENATOR BRODERICK MOVED, SECONDED BY SENATOR EARLEY, THAT THE EXECUTIVE BOARD APPROVE THE AGENDA WITH THE ADDITION OF DISCUSSION ON OUT-OF-STATE TRAVEL REQUESTS. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.**

### Director's Report and Correspondence

Director James Fry reviewed the financial statement for fiscal year 2005 as of 4/30/2005 (**Document #1**). He stated that LRC was in good shape; however, in the next month the Intergovernmental Cooperation program has several obligations (mainly dues) and may hit a negative number. He is anticipating an expenditure of \$50,000 on the new House voting machine. Presently staff has been unable to secure a request for proposal from International Roll Call. (Daktronics is no longer in the voting machine business. International Roll Call is the successor vendor of the voting system.) Mr. Fry stated that he hopes to have a contract before the end of the current fiscal year.

Mr. Fry gave the Board a current membership list for the Education Commission of the States (**Document #2**). He stated that staff is working on getting this list updated at the national level.

Mr. Fry reported the Governor is planning on continuing the Governor's Commission on the Indian Child Welfare Act, which expired on December 31, 2004. Representatives Bradford and Cutler and Senators Gray and Two Bulls have been recommended to the Governor by leadership to serve on the commission (**Document #3**).

A copy of Chair Olson's May 4, 2005, letter to Mr. Gale Walker, Chair of the Governor's Commission on Health Care, was distributed to the Board (**Document #4**). Mr. Fry stated that Mr. Kevin Forsch would be giving an update later in the meeting.

A listing of the current Code Commission membership was distributed along with a copy of Mr. Fry's May 5, 2005, letter to Mr. Michael DeMersseman, whose term expires on June 30, 2005 (**Documents #5 and #6**). Chair Olson read a letter of interest from Mr. DeMersseman requesting that he be reappointed to the commission in order to follow through with the change in the publisher of the Code. Mr. Fry stated that the appointment will be made by the Board at the June meeting.

The current list of Investment Council members was distributed (**Document #7**). Mr. Roy Burr's term expires on June 30, 2005. Mr. Thomas Everist will be the new chair. Mr. Fry stated that interviews will be held at the June meeting. To date, four individuals have shown an interest in serving on the Investment Council.

A current list of the Commission on Uniform Legislation, Mr. Fry's May 5, 2005, letter to Representative O'Brien, whose term expires on July 31, 2005, and Representative O'Brien's request for reappointment letter dated May 10, 2005, were distributed to the Board (**Documents #8, #9, and #10**). Mr. Fry stated that the appointment will be made at the June meeting.

Mr. Fry informed the Board that Mr. Reed Holwegner, LRC's Chief Fiscal Analyst, has been invited to teach at NCSL's New Analyst Seminar which will be held July 6-9, 2005, in Denver.

On a sad note, Mr. Fry stated that long time LRC employee Yolonda Soyer has resigned her position to become the Hughes County Clerk of Courts. He stated that she is very precise in everything that she does and will be greatly missed. The Board expressed their appreciation and thanks to Mrs. Soyer for her years of service to LRC.

Mr. Fry reported that the first of three yearly payments of \$3,300 from the lobbyists has been received. This is reimbursement for the creation of the public wireless network which was well received by the lobbyists.

Mr. Fry stated that LRC has received an invitation to Representative Donna Schafer and her husband Jerry's 50<sup>th</sup> wedding anniversary celebration on June 12, 2005, in Vermillion. He will include this in the next *Update*.

Representative Michels commented that Senator Dave Knudson's father had passed away unexpectedly.

### **Health Care Commission Report - Medicaid and Long-Term Care**

**Mr. Kevin Forsch** of the Governor's office distributed a summary of the Health Care Commission's March 24, 2005, meeting (**Document #11**). He reported that the primary purpose of the meeting was to prioritize the purpose of the Commission for the upcoming year. Three topics were selected for study: 1) Long-Term Care/Medicaid; 2) Filling the Gaps; and 3) Mental Illness/Depression. The Commission set July 14, 2005, as their next meeting date. The formation of subcommittee memberships is in the process. He noted that the subcommittee chairs can draw members from outside the Commission. Because the National Governors Association is looking at Medicaid reform as a whole and that is such a large issue, he stated the Commission plans to look at South Dakota's formula and areas where it can be improved.

In response to a question on the outcome of last year's Long-Term Care Committee, Mr. Forsch stated the committee was chaired by Mr. Dana Darger, Rapid City, and that he will provide a copy of their final report to the Executive Board.

In response to a question regarding advance directive issues, Mr. Forsch stated that another group is in the process of being formulated at this time to work on that issue. Senator Broderick stated he had been involved in an initial meeting of a group in Sioux Falls. They hope to have members statewide which will include legislators, bar association members, and various religious denominations.

### **Selection of 2005 Interim Study Committee Memberships**

Mr. Fry presented the Board with copies of the Personnel Subcommittee Report **(Document #12)**. Chair Olson reviewed the Board policy of trying to place each legislator who has expressed an interest to serve on an interim committee and also trying to honor first choice requests. He stated that there were no magic numbers to any of the committees. Twenty legislators did not wish to serve on a committee and sixteen did not respond.

Following a brief break to allow the Board to review the report, Chair Olson explained that the subcommittee started with the Department of Education's School Funding Study. They decided to place both the chair and vice-chair of the Education Committees on that study and then add some balance between large and small schools. The Department of Education is responsible for staffing this study.

Representative Dennert requested that Senator Koetzle be placed on the Health Insurance Issues Study Committee and Senator Kloucek be placed on the Department of Public Safety Agency Review Committee.

**REPRESENTATIVE PUTNAM MOVED, SECONDED BY SENATOR BRODERICK, THAT THE EXECUTIVE BOARD APPROVE THE INTERIM CLASSIFICATIONS OF REAL PROPERTY STUDY COMMITTEE MEMBERSHIP AS PROPOSED. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.**

**REPRESENTATIVE MICHELS MOVED, SECONDED BY SENATOR EARLEY, THAT THE EXECUTIVE BOARD APPROVE THE INTERIM DEPARTMENT OF AGRICULTURE AGENCY REVIEW COMMITTEE MEMBERSHIP AS PROPOSED. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.**

**REPRESENTATIVE PEDERSON MOVED, SECONDED BY REPRESENTATIVE JENSEN, THAT THE EXECUTIVE BOARD APPROVE THE INTERIM DEPARTMENT OF EDUCATION'S SCHOOL FUNDING STUDY COMMITTEE MEMBERSHIP AS PROPOSED. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.**

SENATOR BRODERICK MOVED, SECONDED BY SENATOR EARLEY, THAT SENATOR KOETZLE BE REMOVED AND SENATOR KLOUCEK BE PLACED ON THE PROPOSED ROSTER OF THE DEPARTMENT OF PUBLIC SAFETY AGENCY REVIEW COMMITTEE AND THE PROPOSED ROSTER BE APPROVED AS AMENDED. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

REPRESENTATIVE DENNERT MOVED, SECONDED BY REPRESENTATIVE PUTNAM, THAT SENATOR KLOUCEK BE REMOVED AND SENATOR KOETZLE BE PLACED ON THE PROPOSED ROSTER OF THE HEALTH INSURANCE ISSUES STUDY COMMITTEE AND THE PROPOSED ROSTER BE APPROVED AS AMENDED. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

Following a discussion of the need for the Executive Board to have a more direct link to the summer studies, Chair Olson asked the members to keep updated on the minutes (which are posted on the Legislative Web site).

Senator Earley requested that the expenditure of the Homeland Security funds be part of the scope of the Department of Public Safety Agency Review.

Chair Olson stated that the agency review process will now be more of a performance type of examination.

The Board recessed at 10:30 a.m. and reconvened at 10:47 a.m.

#### ***Granholm v. Heald Decision (Wine Sales)***

Mr. Fry informed the Board that the Supreme Court of the United States just issued a 5-4 decision in *Granholm v. Heald* which dealt with Michigan and New York state laws that allow in-state, but not out-of-state, wineries to make direct sales to consumers. The Court ruled "both States' laws discriminate against interstate commerce in violation of the Commerce Clause, and that discrimination is neither authorized nor permitted by the Twenty-first Amendment." Mr. Fry stated that he will obtain a copy of the decision. ***(NOTE: Our Attorney General has advised that he believes South Dakota is NOT affected by the Ruling. South Dakota law allows both in-state and out-of-state wineries to ship to retailers, thus we do not discriminate. South Dakota does not permit any winery to ship directly to consumers.)***

#### **Discussion of International Legislative Forum Meetings Attendance**

Mr. Fry stated that the issue is whether expenses are authorized and to what extent for the International Legislative Forum. The forum is not part of LRC's normal meeting structure (NCSL, CSG, etc.). The forum grew out of a small discussion group between legislators from South Dakota, North Dakota, Minnesota, and Manitoba regarding agriculture and health

issues and has never achieved status as a formal meeting group. A membership list was distributed (**Document #13**).

Forum members Senator Peterson and Representative Dennert stated they have been members since its inception. They both felt it was very worthwhile. The 32-member group meets for two days, once per year, and focuses on topics that affect the four areas (i.e., Red River flooding, sharing of transmission lines, transportation of chemicals and cattle across state lines, tourism, etc.). Representative Dennert stated that if Manitoba becomes a member of the Midwestern Legislative Conference, it is possible that the forum could disband.

Representative Heineman requested an overall analysis of all the different organizations (NCSL, ALEC, CSG, etc.). She stated it would be good to know their offerings, their different viewpoints, and the effectiveness of their meetings.

Following a brief discussion, it was the consensus of the Board to allow reimbursement for the eight members for this year. Chair Olson stated that at the time of reappointment, reimbursement would be reevaluated.

### **Out-Of-State Travel Requests**

Chair Olson stated that he has concerns with the way out-of-state travel is currently handled. LRC staff does not always know when Legislators are traveling until after the fact. He stated the annual NCSL conference, which is being held in Seattle this year, is a different situation. Staff handles the room reservations and registrations so they know who composes the South Dakota delegation.

Chair Olson proposed a new policy - when Legislators are traveling out of state for an approved travel, it is the Legislator's responsibility to notify LRC staff at least three (3) weeks prior to the date of the event. Chair Olson stated that by having a deadline of three weeks prior would allow enough time for the alternate to make plans to attend.

Representative Michels stated that three weeks was not enough notice for an alternate and maybe we should no longer have alternates.

Mr. Fry stated there is no current policy on a timeline for completing a travel voucher. If a Legislator has been appointed by the presiding officer to attend a meeting, the travel expenses are paid. Staff is requesting prior notification from those who plan to travel out of state.

Following a discussion on the need for a policy, **SENATOR EARLEY MOVED, SECONDED BY SENATOR GRAY, THAT IF A LEGISLATOR IS PART OF A DELEGATION TO A CONFERENCE FOR WHICH LRC PAYS DUES, THE LEGISLATOR MUST NOTIFY LRC 30 DAYS OR MORE BEFORE THE DATE OF THE CONFERENCE THAT THEY EITHER PLAN TO ATTEND OR NOT ATTEND THE CONFERENCE.**

Discussion followed on what the consequences would be if they did not comply with the policy. Ideas were to not send a voucher, not reimburse the registration cost, or simply not reimburse for any expenses.

**REPRESENTATIVE PUTNAM MOVED A SUBSTITUTE MOTION, SECONDED BY SENATOR KOETZLE, THAT A LEGISLATOR MUST NOTIFY LRC WITHIN 30 DAYS THAT THEY ARE GOING ON AN APPROVED TRIP. LRC THEN SENDS A LETTER STATING THE REQUEST IS ACCEPTED AND EXPLAINING THE RULES. UPON COMPLETION OF THE TRIP, THE LEGISLATOR HAS 30 DAYS TO FILE A TRAVEL VOUCHER WITH LRC OR THE RULES OF PENALTY WILL APPLY.**

Following continued discussion on what the penalties should be, **REPRESENTATIVE PUTNAM WITHDREW HIS SUBSTITUTE MOTION AND SENATOR KOETZLE WITHDREW HIS SECOND. ORIGINAL MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.**

The Board recessed for lunch at 12:00 noon and reconvened at 1:15 p.m.

In response to a question on the State's deadline for filing a travel voucher, **Mrs. Carol Huber**, LRC Finance Officer, stated that according to the Auditor's office there is no deadline; however, some agencies have set their own deadlines.

### **Shadowing Program Subcommittee**

**Representative Michels** reported that the subcommittee is still working out some of the issues and did not have any recommendations at this time.

### **Computer Technology Subcommittee**

**Representative Heineman**, Computer Technology Subcommittee Chair, and **Ms. Lou Adamson**, LRC Legislative Information System Coordinator, reported the subcommittee had discussed changes that were made with technology this past session and considered some new ideas for next year. Seventy-five percent of the Legislators stated they would like to eliminate the *readers* because the Legislative Web site is more current. Ms. Adamson stated that the *readers* are available online as soon as the calendars are posted. The subcommittee also proposes no changes to the bills and journals. She will be putting together another survey to the Legislators asking them questions such as what worked, what did not, and what would make their work more effective.

Ms. Adamson stated that with the proposed e-mail changes for this next session, the printer problems should disappear. She commended everyone for trying the paperless system. The plan is to have power strips installed in all of the committee rooms prior to next session.

## **Executive Board Minutes**

**May 16, 2005**

**Page 8 of 9**

---

Ms. Adamson stated that Scott Darnall, LRC Senior Programmer/Analyst, is working on improvements to the Legislative Web site that will assist Legislators with bill tracking. A preview may be available at the June meeting.

Ms. Adamson is working with the Bureau of Information and Technology on a new web based e-mail access for Legislators. She plans on having training sessions prior to session. She stated that if a Legislator is currently having problems with the CSG e-mail system, a Legislator can use [email.state.sd.us](mailto:email.state.sd.us).



### **High Tech Conference Rooms**

Representative Dennert reported that he had been in Regina for a legislative exchange and had the opportunity to view their high tech conference rooms. It was suggested that a copy of their specifications (RFP) be requested. Senator Earley stated that Canfield's in Sioux Falls also has a high tech conference room. Other high tech rooms located in Brookings and Sioux Falls could also serve as models.

### **Standard and Poor's Education Web Site**

Representative Heineman stated that she had attended a demonstration on the Standard and Poor's educational Web site. It is currently being funded by foundations through the end of 2006. She suggested that someone from the Department of Education give a demonstration to the Executive Board at the June meeting. If it is worthwhile information, perhaps states may buy into it.

### **Investment Council Subcommittee Meeting**

Representative Michels commented that they are going forward with the Investment Council Subcommittee Meeting. It will be on Monday, June 6, at 9:00 a.m. at the Investment Council's office. It is open to anyone that is interested. Mr. Fry will set it up with Mr. Matt Clark.

### **Redistricting Case**

Representative Michels gave an update on the redistricting case. The State is still waiting for the opinion from the South Dakota Supreme Court. Once the opinion is received, the State will have 30 days to act.

**SENATOR BRODERICK MOVED, SECONDED BY REPRESENTATIVE PEDERSON, THAT THE EXECUTIVE BOARD ADJOURN. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.**

The Executive Board adjourned at 1:50 p.m.



All Legislative Research Council committee minutes and agendas are available at the South Dakota Legislature's Homepage: <http://legis.state.sd.us>. Subscribe to receive electronic notification of meeting schedules and the availability of agendas and minutes at MyLRC (<http://legis.state.sd.us/mylrc/index.htm>).